

United States Customs Service, Treasury

§ 171.61

the documentation, bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and

(3) A statement of the facts and circumstances relied upon by the petitioner to justify expedited return of the seized property, supported by satisfactory evidence.

[T.D. 89-86, 54 FR 37602, Sept. 11, 1989; 54 FR 41364, Oct. 6, 1989, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999; T.D. 00-88, 65 FR 78093, Dec. 14, 2000]

§ 171.53 Ruling on petition for expedited procedures.

(a) *Final administrative determination.* Upon receipt of a petition filed pursuant to § 171.52, Customs shall determine first whether a final administrative determination of the case can be made within 21 days of the seizure. If such a final administrative determination is made within 21 days, no further action need be taken under this subpart.

(b) *Determination within 20 days.* If no such final administrative determination is made within 21 days of the seizure, Customs shall within 20 days after the receipt of the petition make a determination as follows:

(1) If Customs determines that the factors listed in § 171.52(c) have been established, it shall terminate the administrative proceedings and release the property from seizure, or in the case of a commercial fishing industry vessel for which a summons has been issued, but not yet answered, dismiss the summons. The property shall not be returned if it is evidence of a violation of law.

(2) If Customs determines that the factors listed in § 171.52(c) have not been established, it shall proceed with the administrative forfeiture.

[T.D. 89-86, 54 FR 37602, Sept. 11, 1989]

§ 171.54 Substitute res in an administrative forfeiture action.

(a) *Substitute res.* Where property is seized for administrative forfeiture for a violation involving controlled substances in personal use quantities, the owner or interested party may offer to post an amount equal to the appraised value of the property (the res) to obtain release of the property. The offer, which may be tendered at any time subsequent to seizure and up until the

completion of administrative forfeiture proceedings, must be in the form of cash, irrevocable letter of credit, certified funds such as a certified check, traveler's check(s), or money order made payable to U.S. Customs. Unless the property is evidence of a violation of law or has other characteristics that particularly suit it for use in illegal activities, it will be released to the owner or interested party subsequent to tender of the substitute res.

(b) *Forfeiture of res.* If a substitute res is posted and it is determined that the property should be administratively forfeited, the res will be forfeited in lieu of the property.

[T.D. 89-86, 54 FR 37602, Sept. 11, 1989]

§ 171.55 Notice provisions.

(a) *Special notice provision.* At the time of seizure of property defined in § 171.51, written notice must be provided to the possessor of the property regarding applicable statutes and Federal regulations including the procedures established for the filing of a petition for expedited procedures as set forth in section 6079 of the Anti-Drug Abuse Act of 1988 and implementing regulations.

(b) *Notice provision.* The notice as required by section 1607 of Title 19, United States Code and applicable regulations shall be made at the earliest practicable opportunity after determining ownership of, or interest in, the seized property and shall include a statement of the applicable law under which the property is seized and a statement of the circumstances of the seizure sufficiently precise to enable an owner or interested party to identify the date, place and use or acquisition which makes the property subject to forfeiture.

[T.D. 89-86, 54 FR 37602, Sept. 11, 1989; 54 FR 43424, Oct. 25, 1989]

Subpart G—Supplemental Petitions for Relief

SOURCE: T.D. 00-57, 65 FR 53578, Sept. 5, 2000, unless otherwise noted.

§ 171.61 Time and place of filing.

If the petitioner is not satisfied with a decision of the deciding official on an

original petition for relief, a supplemental petition may be filed with the Fines, Penalties, and Forfeitures Officer having jurisdiction in the port where the violation occurred. Such supplemental petition must be filed within 60 days from the date of notice to the petitioner of the decision from which further relief is requested or within 60 days following an administrative or judicial decision with respect to the entries involved in a penalty case which reduces the loss of duties upon which the mitigated penalty amount was based (whichever is later) unless another time to file such a supplemental petition is prescribed in the decision. The filing of a supplemental petition may be subject to the conditions prescribed in § 171.64 of this part. A supplemental petition may be filed whether or not the mitigated penalty or forfeiture remission amount designated in the decision on the original petition is paid.

§ 171.62 Supplemental petition decision authority.

(a) *Decisions of Fines, Penalties, and Forfeitures Officers.* Supplemental petitions filed on cases where the original decision was made by the Fines, Penalties, and Forfeitures Officer, will be initially reviewed by that official. The Fines, Penalties, and Forfeitures Officer may choose to grant more relief and issue a decision indicating that additional relief to the petitioner. If the petitioner is dissatisfied with the further relief granted or if the Fines, Penalties, and Forfeitures Officer decides to grant no further relief, the supplemental petition will be forwarded to a designated Headquarters official assigned to a field location for review and decision, except that supplemental petitions filed in cases involving violations of 19 U.S.C. 1641 where the amount of the penalty assessed exceeds \$10,000 will be forwarded to the Chief, Penalties Branch, Office of Regulations and Rulings.

(b) *Decisions of Customs Headquarters.* Supplemental petitions filed on cases where the original decision was made by the Chief, Penalties Branch, Office of Regulations and Rulings, Customs

Headquarters, will be forwarded to the Director, International Trade Compliance Division, Customs Headquarters, for review and decision.

(c) *Decisions of Treasury Department.* Supplemental petitions filed on cases where the original decision was made in the Treasury Department, will be referred to the Chief, Penalties Branch, Office of Regulations and Rulings, Customs Headquarters, who will forward the supplemental petitions to the Department with a recommendation.

(d) *Authority of Assistant Commissioner.* Any authority given to any Headquarters official by this part may also be exercised by the Assistant Commissioner, Office of Regulations and Rulings, or his designee.

§ 171.63 Appeals to the Secretary of the Treasury in certain 1592 cases.

A petitioner filing a supplemental petition pursuant to this subpart from a decision of the Chief, Penalties Branch, Office of Regulations and Rulings, with respect to any liability assessed under 19 U.S.C. 1592 may request that the petition be accepted as an appeal to the Secretary of the Treasury. The Secretary will accept for decision any such supplemental petition when in his discretion he determines that such petition raises a question of fact, law or policy of such importance as to require a decision by the Secretary. If the Secretary declines to accept an appeal for decision, the petitioner will be so informed. In such a case, a decision will be issued thereon by the Director, International Trade Compliance Division.

§ 171.64 Waiver of statute of limitations.

The deciding Customs official always reserves the right to require a waiver of the statute of limitations executed by the claimants to the property or charged party or parties as a condition precedent before accepting a supplemental petition in any case in which less than one year remains before the statute will be available as a defense to all or part of that case.